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Human Rights Committee

Ninety-eighth session

Summary record (partial)* of the 2694th meeting
Held at Headquarters, New York, on Friday, 12 March 2010, at 3 p.m.

Chair: Mr. Iwasawa

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Uzbekistan (*continued*) (CCPR/C/UZB/3, CCPR/C/UZB/Q/3, and CCPR/C/UZB/Q/3/Add.1)

1. *At the invitation of the Chair, the members of the delegation of Uzbekistan took places at the Committee table.*

2. **Ms. Motoc** said that she wished to know the number of persons imprisoned in connection with their religious convictions or for belonging to a religious movement under article 244 of the Criminal Code of Uzbekistan. With respect to article 25 of the Covenant, she wished to know what had been done to implement recommendation 22 from the concluding observations (CCPR/CO/83/UZB). She noted that paragraph 707 of the third periodic report indicated that proselytizing remained a punishable infraction under article 240 of the Criminal Code, even when it used the powers of persuasion alone, without force.

3. She requested comment on reports that fear of being exposed to physical or psychological pressure from the Government had kept many non-governmental organizations (NGOs) from registering. Further, reports from NGOs suggested an excess of Government financial oversight, often with the goal of impeding or halting their activities.

4. Noting that Uzbekistan recognized nationalities rather than minorities, she wished to know what rights had been granted and what funding set aside for groups recognized by Uzbekistan as nationalities, which were considered to be minorities under article 27 of the Covenant, to enable them to preserve their cultural identity.

5. **Mr. Amor** noted that the wording of paragraphs 699 and 704 of the report (CCPR/C/UZB/3) raised the possibility of significant problems with the application of article 18 of the Covenant; paragraph 707 also posed serious problems with respect to international law. With regard to conversion, the Universal Declaration of Human Rights explicitly recognized the right to change religion. In article 18 of the Covenant and in the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief the right to change religion was necessarily implicit. Proselytizing was indirectly permitted by each religion through the right to manifest, teach, and disseminate one's religion. Nonetheless, proselytizing and missionary work was prohibited and punishable in Uzbekistan, and that categorical position posed serious challenges. The Commission on Human Rights had acknowledged the existence of aggressive proselytizing, which was not acceptable when it assailed the conscience or failed to use peaceful means. However, proselytizing could be, and often was, non-aggressive. He failed to understand why individuals were banned from and punished for peacefully calling others to their religion. He asked if Uzbekistan would consider introducing some nuance into its handling of proselytizing such that its laws would not be in direct contradiction of article 18 of the Covenant.

6. **Ms. Chanet** remarked on the notable change in the atmosphere of the proceedings since the consideration of the second periodic report in 2005, despite the fact that Uzbekistan had come to the current review in a better position, having abolished the death penalty and instituted habeas corpus, among other accomplishments. The task of the Committee was to tell a State whether or not the provisions of the Covenant were being respected, and underscored the importance for the Committee of obtaining all possible documents containing reliable and corroborated information, whether those had been provided by NGOs or other human rights and special procedures bodies. Nevertheless, the members had been able to ask their questions and the delegation had had the opportunity to respond freely, regardless of whether it agreed with them.

7. On the issue of dissemination of information relating to the Covenant, she expressed appreciation for the booklets of supplementary information that had been provided to the members of the Committee. One in particular presented information on the implementation of the Committee's concluding observations (CCPR/CO/83/UZB/2). However, while the numbering and structure of the document paralleled the concluding observations, the text of the observations and the recommendations themselves had been omitted. She requested that if a similar document was planned to cover the outcome of the current meetings, the recommendations of the Committee should be included.

8. **Mr. Saidov** (Uzbekistan) said that the intended role of the booklet of supplementary information had been to serve as a link between the second and third periodic reports. The Committee's recommendations had been intentionally omitted because the document had been intended for experts who were already familiar with them. A second booklet had been distributed, but not translated into English, containing information on the implementation of the National Plan of Action based on the Committee's recommendations. It contained the recommendations that had been included in the Plan and information on how they had been implemented.

9. The laws of Uzbekistan prohibited missionary activity and proselytizing. Uzbekistan was a traditionally multi-confessional nation and was home to 16 religions. The number of religious organizations in Uzbekistan had increased ten-fold since 1990. Of those, one tenth were associated with religions other than Islam. Such diversity was the product of greater religious self-identification, increased distancing from Soviet-era State-sponsored atheism, and the right to freedom of religion guaranteed by the Government. The Government attached great importance to preserving religious understanding and tolerance, which the peoples of Uzbekistan had historically demonstrated, and was concerned that missionary activity and proselytizing could upset the current situation. Uzbekistan was proud that there had been no religious or ethnic conflicts in the years since it had gained independence, which was all the more remarkable given the instability of the region. The idea of distinguishing between aggressive and peaceful proselytizing was interesting but raised the question of how the criteria would be determined and by whom. The delegation recognized the value of considering the introduction of more nuance into the policy on proselytizing and the matter would be given further consideration.

10. With regard to the concept of minorities, the inclusion of the term "ethnic minorities" had been considered during the drafting of the Constitution. It had been decided that the equivalent in the Uzbek language would have a negative connotation and could be interpreted as disrespectful and derogatory. In order to avoid offending any ethnic group, the term "nationalities" had been used instead. The term was considered to be synonymous with the term "ethnic minorities".

11. Responding to the question concerning the resources provided for the commission that had been created by Presidential Decree to combat human trafficking, he said that the commission was not a separate or permanent Government entity and had been created on a voluntary basis. It comprised a two-person secretariat and its membership included himself, the Ombudsman, a number of Ministers, and representatives of NGOs. No additional funds had been required for the commission.

12. His Government was aware of the reports on child labour and noted that six reports by American NGOs had been dedicated entirely to that issue. However, he could not agree with the facts, data, and arguments cited in these reports. Eliminating child labour was a matter of the highest priority for the Government. Over the previous two years several measures had been taken: the minimum age of employment had been raised from 14 to 15 and penalties for illegal use of child labour had been increased; two International Labour Organization (ILO) conventions had been ratified and a National Plan of Action had been adopted. There was also an ideological and foreign policy side to the issue tied to Uzbekistan's policy on cotton. Uzbekistan had refused to sell its cotton to Western nations, including the United States; rather than the Liverpool cotton exchange it had chosen to use the one in Tashkent. Following the displacement of American cotton on the Asian market by Uzbek cotton, the attitudes of many previously silent Western entrepreneurs, who had suffered significant financial losses as a result, had changed and a massive information campaign had been launched concerning the alleged inhumane use of child labour. Uzbekistan believed that the unprincipled economic interests of certain Western business partners had been behind the campaign. Currently, all cotton was being grown by private farmers without Government involvement. The claim that children aged 8 to 10 worked in the cotton harvest did not reflect the true situation, as had been affirmed by Uzbekistan at the ILO Summit in June 2009.

13. **Mr. Shodiev** (Uzbekistan) said that Uzbekistan was in the process of introducing biometric passports and the issue of exit visas had been under discussion. The Committee's recommendation could not be adopted due to conflict with national interests. He denied that the *propiska* registration procedure was a social control mechanism. It was being conducted

purely for keeping track of citizens, the same way that many other States used registration, both on a permanent and temporary basis.

14. **Mr. Rakhmonov** (Uzbekistan) said that all judges were appointed for a five-year term of office. All appointments were approved by the President. Judges in the Supreme Court, the Higher Economic Court and the Constitutional Court were nominated by the Senate and judges for the lower courts were nominated by a Qualifications Commission attached to the Office of the President. The Qualifications Commission was currently chaired by a woman deputy from the Legislative Chamber and its 17 members included deputies, legal scholars and representatives of civil society, law enforcement agencies and NGOs. Decisions were taken by simple majority vote. It was an effective and democratic appointment system.

15. A Supreme Court representative was participating in the current meeting because about one quarter of the Committee's questions related to issues within the remit of the Supreme Court: habeas corpus, abolition of the death penalty, life imprisonment, long-term imprisonment and others.

16. **Mr. Akhmedov** (Uzbekistan) said that Uzbekistan, like many other States, had decided to group all lawyers in a single centralized body. The Chamber of Lawyers had therefore been established to replace the Association of Lawyers. The Ministry of Justice provided support for the Chamber's activities, including training, ensured that licensing requirements were met and had various administrative functions. The Ministry maintained a list of all lawyers which was made publicly available and was also responsible for registration of legal companies and corporations. It was Government policy to ensure that all citizens had access to legal advice. Lawyers were protected from groundless prosecution.

17. As a substitute for military service, an alternative civil service was available for citizens aged from 18 to 27 years who belonged to a registered religious organization whose members were not allowed to bear arms or serve in the armed forces. The alternative service consisted of unskilled work of various kinds, the provision of social services, or participation in clean-up efforts after a natural disaster or emergency situation.

18. **Mr. Saidov** (Uzbekistan) said that he was unaware of any difficulties with registration of NGOs. He did not know of any recent case of refusal to register an NGO. Uzbek legislation, however, did require all NGOs to be established as legal entities. When the country had gained its independence, there had been 206 NGOs. Ten years later that number had risen to 2,300, and by 1 January 2010 there were over 5,000 active NGOs. There was no reason to believe there was any fear of harassment.

19. The fact that religious organizations were required to have at least 100 members in order to be registered was not an issue for Muslim religious organizations. The law was in any case applied quite liberally and some smaller Christian organizations had been allowed to register with just 50 members.

20. With regard to nationality, there were three categories of persons in Uzbekistan: Uzbek citizens, who were the overwhelming majority; stateless persons, usually Roma and assimilated; and foreign citizens. Unfortunately, no statistics were available on stateless persons. A special commission, whose members included representatives of Government agencies and NGOs, was responsible for reviewing all citizenship applications and its recommendations were subject to Presidential approval.

21. In response to questions posed in the previous meeting regarding human rights defenders, he said that his delegation would provide written answers for the Committee concerning the individuals mentioned.

22. **Ms. Motoc** said that the issue of proselytizing had been raised in the previous report (para. 22). The term had at one time been understood to mean forced conversion, but that was not its meaning as used in the Covenant. The Committee therefore made a distinction between aggressive and non-aggressive proselytizing. Article 18 of the Covenant referred to the right to freedom of religion and the right to manifest religion in teaching, which implied the right to teach it to others. That article should be understood in conjunction with article 19 on the freedom of expression, which included the freedom to receive information. In addition, the right to freedom of association implied the right to leave associations, including religious ones.

23. **Mr. Thelin** said that, in view of time constraints, he would accept a written reply to his question regarding the independence of the judiciary and its involvement in preparation of the report. It saddened him to see that Freedom House had given Uzbekistan a ranking of 7, the lowest level of freedom, and he hoped

to see a change by the time the next periodic report was submitted.

24. **Sir Nigel Rodley** asked what criteria the Supreme Court used for the commutation of death sentences and whether the process was public or private. He would welcome any additional information about the process. He also wondered what role would be played by the Supreme Court, the executive, or State agencies with regard to follow-up to the Committee's recommendations.

25. **Mr. Rakhmonov** (Uzbekistan) said that commutation of a death sentence to life imprisonment or long-term imprisonment was decided by the Supreme Court in strict compliance with the relevant legislation. The two main criteria were the nature of the crime and the extent of the damage caused to society and to individuals.

26. **Mr. Saidov** (Uzbekistan) said that when the death penalty had been abolished, sentences had been commuted in accordance with the revised provisions of the Criminal Code used in sentencing. He could provide the numbers of the relevant articles. In accordance with the Criminal Procedural Code, the Supreme Court reviewed the cases on the basis of a supervisory procedure, meaning that it dealt with the cases as if they had been reopened.

27. With regard to proselytizing, he noted that every person had the right to choose any religion freely. That was an essential element of freedom of speech, the Constitution and the Covenant. The freedom of religious education was also ensured. Before independence, there had been only two religious educational institutions in Uzbekistan, but there were currently over 20, all of them Islamic. However, the law did not allow missionary activities, the illegal dissemination of religious literature or the conversion of persons of another religion. His delegation would certainly make a thorough study of the Committee's recommendations in that area.

28. Uzbekistan was establishing a strong and independent judiciary and had made considerable progress since independence. His Government understood what was needed for an independent judiciary and was making a careful study of the experience of democratic countries. As for the participation in the meeting of a representative of the Supreme Court, he said that there was no need for a separating wall between the executive and judicial branches, as they were all working together.

29. He had great respect for the work of Freedom House but that organization seemed to assess freedom in terms of civil and political rights only, whereas contemporary international law considered all human rights, including economic, social and cultural rights, to be indivisible. Uzbekistan was working for itself, not to improve its rating with any organization.

30. He thanked the Committee for the constructive discussion. There had certainly been moments of tension, but it was especially in such heated discussions that the truth could be found. The Committee's concluding observations would be made available to the public and his delegation would soon be working in detail on the national plan of action to implement the recommendations made. The plan would be drafted with assistance from Uzbekistan's international partners: the United Nations Development Programme, the United Nations Children's Fund (UNICEF) and other organizations.

31. **The Chair** said that in view of time constraints, the Committee often did not acknowledge progress to the same extent as it voiced its concerns, but the Committee would take note in its concluding observations of the progress made by Uzbekistan.

32. There had been a constructive dialogue with the delegation, despite the unfortunate lack of translation of the Government's written replies, which had been submitted in an official language of the United Nations. The Committee had been very pleased to receive such a high-level delegation.

33. *The members of the delegation of Uzbekistan withdrew.*

The meeting was suspended at 4.25 p.m. and resumed at 4.35 p.m.

34. **The Chair** said that the Assistant Secretary-General for the Department for General Assembly and Conference Management, the Director of the New York Office of the Office of the High Commissioner for Human Rights and the Chief of the Budget Section of the Office of Programme Planning, Budget and Accounts had been invited to meet with the Committee to discuss documentation issues.

35. Under article 40 of the International Covenant on Civil and Political Rights, States parties were requested to submit periodic reports to the Committee. In order to facilitate consideration of State party reports, the Committee asked States parties to respond in advance

to the list of issues. Translation of both the State party reports and the written responses to the list of issues into the Committee's working languages was of paramount importance. The Committee had relied on the Division of Conference Management of the United Nations Office at Geneva to provide that service in the past, but problems had been encountered at recent sessions of the Committee.

36. At a meeting with the Division requested by the Committee in October 2009, representatives of the Division had explained that, as State party reports were mandated documents, while written replies to the list of issues were not, the latter would be translated only if resources were available. It had also been pointed out that insufficient resources had been allocated to the Geneva office and that there was a particular shortage of translators working from Russian into English.

37. In light of the increased demands placed on the Division by the establishment of the Human Rights Council, and the resulting impact on the translation and document processing services provided to treaty bodies, he would like to know what measures might be taken to resolve the current problems, especially given the importance of improving the human rights situation in States parties to the Convention.

38. **Mr. Thelin** said that the current situation was unsatisfactory and left the Committee with few options. On the one hand, suspending consideration of a report due to lack of resources would be unfair to States parties who had submitted their reports in an official language as requested. On the other hand, continuing to draw on Secretariat resources not specifically allocated for the Committee's use would not be feasible either. Given that article 36 of the Covenant stipulated that the provision of necessary staff and facilities for the effective performance of the functions of the Committee was the responsibility of the Secretary-General, it was inappropriate to place the burden of providing such support on the Office of the High Commissioner for Human Rights. The Committee would not be able to function properly until the issue was resolved.

39. **Mr. Lallah** said that attention should also be paid to the occasional difficulties faced by the Committee with regard to Optional Protocol work. Noting that the Committee's previous complaints to the General Assembly seemed not to have helped matters, he asked the Assistant Secretary-General to provide guidance on internal measures the Committee might take to improve the situation. Furthermore, it would be useful to know whether the Committee should appeal directly to the bodies responsible for allocating resources for translation services, such as the Advisory Committee on Administrative and Budgetary Questions.

40. **Sir Nigel Rodley** said that the very presence of the Assistant Secretary-General and the Chief of the Budget Section of the Office of Programme Planning, Budget and Accounts at the meeting was indicative of the seriousness with which the Committee's concerns were being taken. The significance of the list of issues might not be sufficiently clear. By inviting States parties to respond in advance to specific concerns, the Committee was able to proceed directly to dialogue at its public meetings, thereby streamlining its duties, as it had often been requested to do. However, if the written replies were not available in the Committee's working languages, the State party would have to read them out at the public meeting, a use of already limited meeting time that sabotaged the important streamlining initiative. The Committee was currently in a transitional phase between its current system and a working method under which written replies might end up replacing actual periodic reports, thereby reducing overall workload, including translation needs.

41. **Mr. Salvioli** said that States parties, including Argentina and Mexico at the current session, had also expressed their frustration with the Committee's inability to secure the means it needed to carry out its work. Asking a State party questions that it had already addressed in its written replies, but that the Committee had been unable to read in advance, undermined the Committee's credibility, and establishing credibility was essential to the effective functioning of a human rights treaty body.

42. **Mr. O'Flaherty** said that the problems faced by the Committee affected all documents it needed to perform its duties, including the draft documents it would adopt, such as concluding observations and views on individual communications. Delays or outright unavailability of documents triggered three types of concern. First, the quality of the Committee's work was hampered by lack of access to certain materials. Second, unavailability of documents led to a lack of transparency in the Committee's activities. Third, the Committee was forced to rush through its work upon receipt of delayed documents.

43. It was important to acknowledge that translation services in New York, which were available 24 hours a day, had generally been more reliable than their Geneva counterparts. The problem lay with the Geneva translation services in particular, not with the Office of the United Nations High Commissioner for Human Rights. In that context, it would be interesting to hear the Assistant Secretary-General's views on the question of resources drawn to the Human Rights Council since its establishment.

44. **Mr. Amor** said that members of the Committee might have to abstain from taking part in the Committee's activities if translation problems made it impossible for them to carry out their appointed tasks.

45. **Ms. Motoc** said that, while problems with document translation had always arisen, the situation had deteriorated over the previous decade; State party reports, once available in two or three working languages, were only being distributed in the original language in some cases. She wondered where the worrisome trend of vanishing linguistic diversity might lead. Some of her colleagues at other organizations had refused to participate in discussions if relevant documents were not translated into their working languages.

46. **Mr. Rivas Posada** said that the translation issue had been raised, session after session, to no avail. In attempting to arrive at a satisfactory solution, it was essential to determine the extent to which the Human Rights Council's documentation needs had affected the servicing of human rights treaty bodies, as the idea of internal competition for resources should not be allowed to persist.

47. **Ms. Morales** (Secretary of the Committee) said that over the previous 15 years, human rights treaty bodies had had to give up what had initially been entitlements in order to adapt to the increasing scarcity of resources in Geneva. Despite significant efforts made to that end, the current state of affairs seemed to indicate that a different course of action was required.

48. **Mr. Baumann** (Assistant Secretary-General for General Assembly and Conference Management) said that translation of documents was not just an issue of resources but also of capacity and management. Already in 1997, in his first reform proposals, Secretary-General Kofi Annan had recognized the need for global management of conference services to allow for priority-setting and cooperation across duty stations. Even so, there were areas still now where systems did not communicate, although he and the Under-Secretary-General for General Assembly and Conference Management had made communication a high priority. The response to requests for translation was more rapid in New York because New York was better at planning. The translation services at both Headquarters and Geneva were equally busy and both had high productivity, but New York had instituted internal management measures such as slotting of documents and capacity planning and forecasting that made the difference. The conference-servicing needs at any given moment had to be known far in advance in order to deliver services in time. The Organization's policy was to hire 20 per cent of its translation staff on a freelance basis to meet the needs, and it sometimes booked them nine months in advance, because language staff were a scarce and sought-after resource and, frankly, the Organization's conditions of employment were not always competitive.

49. He was heartened by the careful consideration being given by the Committee to what more could be done. What Headquarters was doing was to export to Geneva and Vienna, and to a certain extent Nairobi, a professionalized approach to capacity projection and planning and document slotting. The Committee itself could help by reducing the volume and size of documents submitted and stating precisely when it would submit them. Also, it should be borne in mind that the replies by delegations to the list of issues used to be made orally when the Committee met with them, as Sir Nigel himself had pointed out. What had been a non-budgeted item had thus, with time, come to be considered an acquired right.

50. The translation budget was not a problem of the United Nations Office at Geneva but of the Department of General Assembly and Conference Management, since budget matters were handled in New York. The Secretary-General had, in fact, moved massive resources to Geneva, and in December 2009 the General Assembly had been helpful by approving the budget essentially as proposed by the Secretary-General. The Department had been asked to monitor the situation in Geneva and to come forward with requests for more funds if indeed the appropriations were insufficient. However, it was simply not possible to ask Member States for more funds as early as the first quarter of a biennium and, for the time being, improved internal management must be relied upon. He

believed that the creation of the Human Rights Council had drawn off some funds, and that the increased resources appropriated for the treaty bodies were not commensurate with the workload. At some later point, the carefully costed request for some $9 million additional for Human Rights Council work, on which the Third Committee had taken no action two years earlier, could perhaps be revived. The Committee should not expect a higher level of funding overnight, but perhaps it could by the end of the year.

51. The issue of lack of service, incidentally, was a problem not simply for the duty stations but also for the United Nations Conference on Trade and Development and the various tribunals — in other words, it was a problem across the board. But he wanted to assure the members of the Committee that he had heard what they had said loud and clear, and that the Department was doing its best to manage services. He hoped that when he met again with the Committee the following year, all would agree that the situation had definitely improved.

52. **Sir Nigel Rodley** said that the Committee was grateful for the tone of the Assistant Secretary-General's remarks, for his awareness of the problem and its scope, and the serious methods he had instituted to deal with it.

53. On the question of budgeted and non-budgeted items — or mandated and non-mandated in Geneva parlance — he wished to point out that the treaty bodies had at their inter-committee meetings regularly reaffirmed their concern over the non-translation of written replies to the lists of issues, which they all regarded as integral to their work. Was there something the treaty bodies to could do to get such translation budgeted?

54. **Mr. Thelin** said that he agreed that the Committee itself needed to plan ahead. Its documents, however, came from the States parties, and could be very long and very late in coming; at the same time, the Committee did not have an option to refuse them. What the treaty bodies needed was to have at their immediate disposal a certain pool of resources to hire freelancers of their own to deal with such contingencies. It would be a great relief to them if some short-term flexibility could be built in.

55. **Mr. Baumann** (Assistant Secretary-General for General Assembly and Conference Management) said, with reference to obtaining a mandate for a particular activity, that it must come from the General Assembly; and as far as he knew, there was no provision for the kind of standby capacity that Mr. Thelin referred to.

56. He had read with great interest the draft report of the tenth inter-committee meeting of treaty bodies, particularly paragraph 16 referring to the need for the treaty bodies to restrict the number of recommendations on which States parties needed to provide follow-up information, which would indeed help limit the documentation requiring translation. It would also be useful for the committees to develop an inventory of all documents with their mandates and submission schedules. Many bodies depended, like the Committee, on upstream providers, and that of course created huge problems in the production of documents. Predictability was the key. The Department could do even a big job if it knew it was coming. Instead, the crisis mode seemed to be the norm. Integrated global management treated the duty stations as one and there was room for improvement by having them rearrange their work locally by setting aside less urgent tasks in order to fulfil global priorities.

57. **The Chair** informed the Assistant Secretary-General that in October 2009 the Committee had taken a decision that once a State party had submitted its second periodic report, its written replies to the list of issues would thereafter become its report under article 40 of the Covenant. It would take time to implement that decision; and in the meantime, he too wished to underscore the importance of having the written replies translated as a mandated document. He thanked the Assistant Secretary-General for meeting with the members of the Committee, who had been encouraged by his willingness to hear their concerns and by his indication that some steps were being taken to address them.

The discussion covered in the summary record ended at 5.30 p.m.